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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1973**

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**Introduced by Assembly Member Bermudez**

February 9, 2006

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An act to amend Sections 19805, 19812, and 19963 of, and to add Sections 19954 and 19962 to, the Business and Professions Code, relating to gaming.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1973, as amended, Bermudez. Gambling control.

(1) The Gambling Control Act defines and regulates controlled games and prohibits the conduct of gambling in a city, county, or city and county that does not have an ordinance governing certain aspects of the operation of gambling establishments, including the hours of operation of gambling establishments.

This bill would define hours of operation for these purposes as the period during which a gambling establishment is open within a 24-hour period. The bill would also specify factors for the Division of Gambling Control to consider in determining if there has been an expansion of gambling relating to hours of operation.

(2) Existing law accords the California Gambling Control Commission jurisdiction over the operation, concentration, and supervision of gambling establishments in California. Existing law further provides that this commission shall consist of 5 members appointed by the Governor, subject to Senate confirmation, and requires one member of the commission to be a certified public accountant with auditing experience, and one member to have a background in business with at least 5 years of business experience.

This bill would delete the requirement that the certified public accountant member have auditing experience, *would permit the accountant member position to be filled by a person with experience in banking or finance*, and would require the member with a background in business to have at least 5 years of business experience or alternatively 5 years of governmental experience.

(3) Existing law establishes the Gambling Control Fund within the State Treasury for the receipt and deposit of fees and revenue collected pursuant to the act. Under the act, specified licensing fees are required to be paid for the issuance or renewal of a state gambling license, as specified. Under existing law, the fee for initial issuance of a state gambling license is determined by the Division of Gambling Control and the fee for the renewal of a state gambling license is determined pursuant to specified schedules based on the authorized number of tables at which games are played.

This bill would require each licensee to pay an additional \$100 for each table for which it is licensed to the Department of Alcohol and Drug Programs for deposit in the Gambling Addiction Program Fund, which would be established by the bill to benefit those who have a gambling addiction problem. These funds would be available, upon appropriation by the Legislature, to community-based organizations that directly provide aid and assistance to those persons with a gambling addiction problem.

(4) The act prohibits, until January 1, 2010, the governing body and the electors of a county, city, or city and county from authorizing or expanding any legal gaming beyond that permitted on January 1, 1996. Additionally, the commission is prohibited, until January 1, 2010, from issuing a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, except as specified.

This bill would extend the operation of these provisions to January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 19805 of the Business and Professions  
Code is amended to read:

19805. As used in this chapter, the following definitions shall  
apply:

(a) “Affiliate” means a person who, directly or indirectly  
through one or more intermediaries, controls, is controlled by, or  
is under common control with, a specified person.

(b) “Applicant” means any person who has applied for, or is  
about to apply for, a state gambling license, a key employee  
license, a registration, a finding of suitability, a work permit, a  
manufacturer’s or distributor’s license, or an approval of any act  
or transaction for which the approval or authorization of the  
commission or division is required or permitted under this  
chapter.

(c) “Banking game” or “banked game” does not include a  
controlled game if the published rules of the game feature a  
player-dealer position and provide that this position must be  
continuously and systematically rotated amongst each of the  
participants during the play of the game, ensure that the  
player-dealer is able to win or lose only a fixed and limited  
wager during the play of the game, and preclude the house,  
another entity, a player, or an observer from maintaining or  
operating as a bank during the course of the game. For purposes  
of this section it is not the intent of the Legislature to mandate  
acceptance of the deal by every player if the division finds that  
the rules of the game render the maintenance of or operation of a  
bank impossible by other means. The house shall not occupy the  
player-dealer position.

(d) “Commission” means the California Gambling Control  
Commission.

(e) “Controlled gambling” means to deal, operate, carry on,  
conduct, maintain, or expose for play any controlled game.

(f) “Controlled game” means any controlled game, as defined  
by subdivision (e) of Section 337j of the Penal Code.

1 (g) “Director,” when used in connection with a corporation,  
2 means any director of a corporation or any person performing  
3 similar functions with respect to any organization. In any other  
4 case, “director” means the Director of the Division of Gambling  
5 Control.

6 (h) “Division” means the Division of Gambling Control in the  
7 Department of Justice.

8 (i) “Finding of suitability” means a finding that a person meets  
9 the qualification criteria described in subdivisions (a) and (b) of  
10 Section 19857, and that the person would not be disqualified  
11 from holding a state gambling license on any of the grounds  
12 specified in Section 19859.

13 (j) “Game” and “gambling game” means any controlled game.

14 (k) “Gambling” means to deal, operate, carry on, conduct,  
15 maintain, or expose for play any controlled game.

16 (l) “Gambling enterprise employee” means any natural person  
17 employed in the operation of a gambling enterprise, including,  
18 without limitation, dealers, floor personnel, security employees,  
19 countroom personnel, cage personnel, collection personnel,  
20 surveillance personnel, data-processing personnel, appropriate  
21 maintenance personnel, waiters and waitresses, and secretaries,  
22 or any other natural person whose employment duties require or  
23 authorize access to restricted gambling establishment areas.

24 (m) “Gambling establishment,” “establishment,” or “licensed  
25 premises” except as otherwise defined in Section 19812, means  
26 one or more rooms where any controlled gambling or activity  
27 directly related thereto occurs.

28 (n) “Gambling license” or “state gambling license” means any  
29 license issued by the state that authorizes the person named  
30 therein to conduct a gambling operation.

31 (o) “Gambling operation” means exposing for play one or  
32 more controlled games that are dealt, operated, carried on,  
33 conducted, or maintained for commercial gain.

34 (p) “Gross revenue” means the total of all compensation  
35 received for conducting any controlled game, and includes  
36 interest received in payment for credit extended by an owner  
37 licensee to a patron for purposes of gambling, except as provided  
38 by regulation.

39 (q) “Hours of operation” means the period during which a  
40 gambling establishment is open to conduct the play of controlled

1 games within a 24-hour period. In determining whether there has  
2 been expansion of gambling relating to “hours of operation,” the  
3 division shall consider the hours in the day when the local  
4 ordinance permitted the gambling establishment to be open for  
5 business on January 1, 1996, and compare the current ordinance  
6 and the hours during which the gambling establishment may be  
7 open for business. The fact that the ordinance was amended to  
8 permit gambling on a day, when gambling was not permitted on  
9 January 1, 1996, shall not be considered in determining whether  
10 there has been gambling in excess of that permitted by Section  
11 19961.

12 (r) “House” means the gambling establishment, and any  
13 owner, shareholder, partner, key employee, or landlord thereof.

14 (s) “Independent agent,” except as provided by regulation,  
15 means any person who does either of the following:

16 (1) Collects debt evidenced by a credit instrument.

17 (2) Contracts with an owner licensee, or an affiliate thereof, to  
18 provide services consisting of arranging transportation or lodging  
19 for guests at a gambling establishment.

20 (t) “Institutional investor” means any retirement fund  
21 administered by a public agency for the exclusive benefit of  
22 federal, state, or local public employees, any investment  
23 company registered under the Investment Company Act of 1940  
24 (15 U.S.C. Sec. 80a-1 et seq.), any collective investment trust  
25 organized by banks under Part Nine of the Rules of the  
26 Comptroller of the Currency, any closed-end investment trust,  
27 any chartered or licensed life insurance company or property and  
28 casualty insurance company, any banking and other chartered or  
29 licensed lending institution, any investment advisor registered  
30 under the Investment Advisors Act of 1940 (15 U.S.C. Sec.  
31 80b-1 et seq.) acting in that capacity, and other persons as the  
32 commission may determine for reasons consistent with the  
33 policies of this chapter.

34 (u) “Key employee” means any natural person employed in  
35 the operation of a gambling enterprise in a supervisory capacity  
36 or empowered to make discretionary decisions that regulate  
37 gambling operations, including, without limitation, pit bosses,  
38 shift bosses, credit executives, cashier operations supervisors,  
39 gambling operation managers and assistant managers, managers  
40 or supervisors of security employees, or any other natural person

1 designated as a key employee by the division for reasons  
2 consistent with the policies of this chapter.

3 (v) “Key employee license” means a state license authorizing  
4 the holder to be associated with a gambling enterprise as a key  
5 employee.

6 (w) “Licensed gambling establishment” means the gambling  
7 premises encompassed by a state gambling license.

8 (x) “Limited partnership” means a partnership formed by two  
9 or more persons having as members one or more general partners  
10 and one or more limited partners.

11 (y) “Limited partnership interest” means the right of a general  
12 or limited partner to any of the following:

13 (1) To receive from a limited partnership any of the following:

14 (A) A share of the revenue.

15 (B) Any other compensation by way of income.

16 (C) A return of any or all of his or her contribution to capital  
17 of the limited partnership.

18 (2) To exercise any of the rights provided under state law.

19 (z) “Owner licensee” means an owner of a gambling enterprise  
20 who holds a state gambling license.

21 (aa) “Person,” unless otherwise indicated, includes a natural  
22 person, corporation, partnership, limited partnership, trust, joint  
23 venture, association, or any other business organization.

24 (bb) “Player” means a patron of a gambling establishment who  
25 participates in a controlled game.

26 (cc) “Player-dealer” and “controlled game featuring a  
27 player-dealer position” refer to a position in a controlled game, as  
28 defined by the approved rules for that game, in which seated  
29 player participants are afforded the temporary opportunity to  
30 wager against multiple players at the same table, provided that  
31 this position is rotated amongst the other seated players in the  
32 game.

33 (dd) “Publicly traded racing association” means a corporation  
34 licensed to conduct horse racing and simulcast wagering pursuant  
35 to Chapter 4 (commencing with Section 19400) whose stock is  
36 publicly traded.

37 (ee) “Qualified racing association” means a corporation  
38 licensed to conduct horse racing and simulcast wagering pursuant  
39 to Chapter 4 (commencing with Section 19400) that is a wholly  
40 owned subsidiary of a corporation whose stock is publicly traded.

(ff) “Work permit” means any card, certificate, or permit issued by the commission, or by a county, city, or city and county, whether denominated as a work permit, registration card, or otherwise, authorizing the holder to be employed as a gambling enterprise employee or to serve as an independent agent. A document issued by any governmental authority for any employment other than gambling is not a valid work permit for the purposes of this chapter.

SEC. 2. Section 19812 of the Business and Professions Code is amended to read:

19812. (a) Each member of the commission shall be a citizen of the United States and a resident of this state.

(b) No Member of the Legislature, no person holding any elective office in state, county, or local government, and no officer or official of any political party is eligible for appointment to the commission.

(c) No more than three of the five members of the commission shall be members of the same political party.

(d) A person is ineligible for appointment to the commission if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any gambling establishment. For the purposes of this subdivision, “gambling establishment” means one or more rooms wherein any gaming within the meaning of Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code, or any controlled game within the meaning of Section 337j of the Penal Code, is conducted, whether or not the activity occurred in California.

(e) One member of the commission shall be a certified public accountant *or a person with experience in banking or finance*, one member shall be an attorney and a member of the State Bar of California with regulatory law experience, one member shall have a background in law enforcement and criminal investigation, one member shall have a background in business with at least five years of business experience or alternatively five years of governmental experience, and one member shall be from the public at large.

SEC. 3. Section 19954 is added to the Business and Professions Code, to read:

19954. In addition to those fees required pursuant to Section 19951, each licensee shall pay an additional one hundred dollars (\$100) for each table for which it is licensed to the Department of Alcohol and Drug Programs for deposit in the Gambling Addiction Program Fund, which is hereby established to benefit those who have a gambling addiction problem. These funds shall be made available, upon appropriation by the Legislature, to community-based organizations that directly provide aid and assistance to those persons with a gambling addiction problem.

SEC. 4. Section 19962 is added to the Business and Professions Code, to read:

19962. (a) On and after the effective date of this chapter, neither the governing body nor the electors of a county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, shall authorize legal gaming.

(b) An ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may not be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

(c) This section shall become operative on January 1, 2010.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 5. Section 19963 of the Business and Professions Code is amended to read:

19963. (a) In addition to any other limitations on the expansion of gambling imposed by Section 19962 or any provision of this chapter, the commission may not issue a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the division prior to September 1, 2000.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.